

REMARKS

Reconsideration of this application in view of the above amendments and following remarks is requested. After entry of this amendment, claims 2-4, 6-14 and 17-23 (19 claims) are pending in the application. Claims 15-16 are canceled (claims 1 and 5 were previously canceled), claims 2, 3, 9-14, 17 and 19 are amended, and claim 23 is added.

Please note and record our change of Attorney Docket Number in this matter to: 069236-00111.

In the office action dated August 10, 2006, the Examiner restricts the application to claims 2-4 and 6-11, drawn to a screen classified in class 248, subclass 123.2; rejects claims 2-4 and 6-11 under 35 USC §112, 2nd paragraph, for being indefinite; rejects claim 2-4, 6 and 9-11 under 35 USC § 102(e) as anticipated by Francis Kepley Jr. et al (U.S. Patent No. 6,736,516); rejects claim 7 under 35 USC §103(a) as unpatentable over Kepley; and rejects claim 8 under 35 USC §103(a) as unpatentable over Kepley in view of Higginbotham (U.S. Patent No. 1,855,964).

Restriction

The Examiner restricts the application to claims 2-4 and 6-11, drawn to a screen classified in class 248, subclass 123.2, stating that these claims are distinct from claims 12-22, drawn to a presentation board classified in class 353, subclass 79. Applicants respectfully traverse this restriction.

The Examiner alleges the two inventions distinct because they are shown to be separately usable, and asserts that claims 2-6 and 6-11 have "separate utility such as displaying screen which is fed by computer or television." Applicants do not understand the

Examiner's logic in concluding the separate utility of claims 2-6 and 6-11 relative to claims 12-22.

First, Applicants assert that the Examiner's statement of separate utility is unreasonable. Use as a displaying screen fed by computer or television is not viable, and would render the supposed combination unnecessary. There would be no need for a first set of upright members, and for the claimed relationship of the first and the second upright members. Applicants submit that the alleged subcombination is not manufactured, used or sold separate from the combination. Applicants request that the Examiner respond to Applicants' unreasonableness argument in accordance with MPEP § 806.05(d); particularly satisfying Examiner's burden of setting forth viable examples supporting the purported separate utility.

Second, the Examiner has not articulated what the two claimed subcombinations are, or what the combination is, to assure that the two subcombinations are disclosed as usable together in a single combination, in accordance with MPEP § 806.05(d). This requirement is also necessary to assure that the two subcombinations are not generically claimed.

The Examiner has availed himself of showing only one-way distinctness, in accordance MPEP § 806.05(d). However, it appears that the Examiner may actually be asserting that combination and subcombination inventions are distinct. Again, Applicants request that the Examiner specifically define the subcombinations and the combination, as Applicants contend that two-way distinctiveness may be required, and also a reason for insisting on restriction (e.g. separate classification, status or field of search), in accordance with MPEP § 806.05(c). As explained below, a reason for insisting on restriction cannot be shown in this instance. Further, Applicants want assurance that the combination as claimed

does not depend on the particulars of the subcombination for patentability, prior to conceding that restriction is proper.

Lastly, Applicants do not understand the Examiner's logic in concluding the separate utility, since claims 2-6 and 6-11 do not positively recite either a projector or a screen. To be sure, the Examiner states that claims 2-6 and 6-11 do not positively recite a projector in his §112 rejections. However, claims 12-22 also do not positively recite either a projector or a screen. Accordingly, if one were to surmise that the device of claims 2-6 and 6-11 "could possibly" be utilized to support a display screen fed by computer or television, rather than by projector; so then could the device of claims 12-22. The stated distinction fails.

Further, class 248-subclass 123.2 (for claims 2-6 and 6-11) is directed to a support stand and bracket having an adjustable bracket counterbalanced by a counterweight. Class 353-subclass 79 (for claims 12-22) is directed to a structurally related projector and screen. If claims 12-22 do not positively recite either a projector or screen, it would appear that the Examiner has not properly classified claims 12-22. If class 353-subclass 79 is a proper primary classification for claims 12-22, why wouldn't it also be so for claims 2-6 and 6-11, since claims 2-6 and 6-11 similarly do not positively recite either a projector or screen.

At page 2 of the office action, the Examiner states that claims 12-22 are drawn to a presentation board in class 353-subclass 79, but these claims do not positively recite a presentation board. The Examiner states that claims 2-6 and 6-11 are drawn to a screen in class 248-subclass 123.2, but class 248-subclass 123.2 is directed to a support stand and bracket, not a screen, and claims 2-6 and 6-11 do not even positively recite a screen.

In view of the above, Applicants respectfully request that the Examiner withdraw the restriction requirement, and provide an examination on the merits of claims 12-22 in a non-final office action.

Claim Rejections – 35 USC § 112

The Examiner rejects claims 2-4 and 6-11 under 35 USC §112, 2nd paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The Examiner states that, at line 7 of claim 2, “the projector” is indefinite, and is not positively cited in the body of claim 2. Applicants respectfully traverse this rejection.

Although Applicants do not agree with the Examiner that the term “the projector” is indefinite, Applicants have amended one or more of the rejected claims to remove any suggestion of a positive citation to a projector in claim 2, and to more completely cover and clearly describe certain aspects of Applicants’ invention.

Claim Rejections – 35 USC § 102

The Examiner rejects claim 2-4, 6 and 9-11 under 35 USC § 102(e) as anticipated by Francis Kepley Jr. et al (U.S. Patent No. 6,736,516). Applicants respectfully traverse the Examiner’s rejections under § 102(b), as Kepley does not disclose each and every element of the claimed invention.

Regarding independent claim 2, the Examiner states at page 4 of the office action that Kepley teaches a first set of upright members (102 & 104) adapted to support a screen, and a second set of upright members (134, 136) adapted to support a projector, where the first set of upright members (102 & 104) are positioned between the second set of upright members (134, 136) and a support location of the projector. In accordance with the Examiner’s

identification of the members, Kepley does not disclose, teach or suggest the first set of upright members (102 & 104) being positioned between the second set of upright members (134, 136) and the support location of the projector.

As shown in Figures 1 and 2 of Kepley, there is simply no plane or axis in which the first set of upright members (102 & 104), as identified by the Examiner, are positioned between the second set of upright members (134, 136) and the support location of the projector. Further, the Examiner makes this conclusory statement in the office action without explanation supporting the alleged teaching. Applicants request clarification. Perhaps the Examiner alleges that the second set of upright members (134, 136) are vertically positioned between the first set of upright members (102 & 104) and the support location of the projector. However, this is not the claimed invention. The claimed invention recites that the first set of upright members are positioned between the second set of upright members and the projector support location.

Although Applicants traverse the rejection, and do not believe amendment necessary to overcome the cited prior art, as detailed above, Applicants amend claim 2 to remove any suggestion of a positive citation to a projector, and to more completely cover and clearly describe certain aspects of Applicants' invention.

Regarding dependent claim 4, the Examiner states at page 4 of the office action that Kepley teaches a boom arm (124) also supporting a weight (140 & 204) communicating only with the boom arm. Kepley does not disclose, teach or suggest that the weight (140 & 204) only communicates with the boom arm. Kepley's weights (140 & 204) communicate with the boom arm (124) and the first set of upright members (102 & 104), as shown in Figures 1, 2 and 8 of Kepley.

Regarding dependent claim 6, the Examiner states at page 4 of the office action that Kepley teaches the boom arm (124) also supporting a free-hanging weight (140) attached to the boom arm by a flexible mechanism. Kepley does not disclose, teach or suggest that the weight (140) is free-hanging. Kepley's weight (140) is supported by, and hangs from, the boom arm (124), but is not free-hanging, as the weight (140) is secured and restricted by cable (140), which is connected to and taut between the boom arm and the first set of upright members (102 & 104), as shown in Figures 1, 2 and 8 of Kepley. Further, Kepley's weight (140) is not attached to the boom arm (124) by a flexible mechanism, but rather by the cable (140), which is pulled taut between the boom arm (124) and the first set of upright members (102 & 104). Again, the Examiner makes a conclusory statement in the office action without explanation supporting the alleged teaching (i.e., how is the alleged teaching accomplished). Applicants request clarification, and request opportunity to respond to this rejection, if repeated, in a non-final office action.

Claim Rejections – 35 USC § 103

The Examiner rejects claim 7 under 35 USC §103(a) as unpatentable over Kepley (U.S. Patent No. 6,736,516). Applicants respectfully traverse this §103(a) rejection.

Regarding dependent claim 7, the Examiner states it obvious, at page 5 of the office action, to add "an elastic washer between the first and the second upright members to provide dampening for absorbing stress and force between the first and second upright members and to increase the life cycle for the first and second upright members." The Examiner makes this conclusory statement and rejection without support for the obviousness rejection.

Applicants understand that the Examiner may support an obviousness rejection with common knowledge in the art or with "well-known" prior art, but the Examiner has not even

stated that support for this rejection is based upon old and well known art. And even if the Examiner is taking official notice of facts outside of the record to make this rejection, the Examiner may only do so if the facts are capable of an instant and unquestionable demonstration as being "well-known" in the art. *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

Accordingly, Applicants contend that the Examiner has not satisfied his burden of proving a prima facie case of obviousness by suggesting that elements of the claimed invention are obvious with a mere conclusory statement, and without specifically providing supporting data, or citing a reference, or presenting the detailed personal knowledge or expert opinion upon which the rejection is based. Applicants respectfully request that the Examiner state the basis or provide data in support of the obviousness assertion in accordance with MPEP § 2144.03.

Added Claim

Claim 23 is added in this response and amendment to more completely cover certain aspects of Applicants' invention. Applicants submit that the added claim is patentable over the prior art of record, for the reasons detailed above, since similar features are recited, and that the added claim finds support throughout the specification and the drawings.

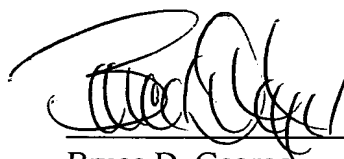
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CONCLUSION

In light of the above amendments and remarks, Applicants submit that pending claims 2-4, 6-14 and 17-23 are allowable and requests that the Examiner issue an early notice of allowance. The Examiner is invited to call the undersigned attorney in the event that a telephone interview will advance prosecution of this application.

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